



WESTFIELD-WASHINGTON

BOARD OF ZONING APPEALS

January 12, 2010

0912-VS-10

Exhibit 1

PETITION NUMBER:	0912-VS-10
SUBJECT SITE ADDRESS:	19775 & 19825 Moontown Road
APPELLANT:	MJR Property Management, LLC
REQUEST:	The Appellant is requesting a Variance of Development Standard from the Westfield-Washington Zoning Ordinance (WC 16.04.030, B5) to legally subdivide property in the AG-SF1 District by reducing the minimum lot frontage from 250 feet to 237 feet for the northern lot (described as “Lot 2” herein).
CURRENT ZONING:	AG-SF1
CURRENT LAND USE:	Agricultural
APPROXIMATE ACREAGE:	12.9 acres +/-
RELATED CASES:	None
EXHIBITS:	1. Staff Report 2. Aerial Location Map 3. Lot Identification Map 4. Property Cards 5. Warranty Deeds 6. Letter from Adjacent Property Owner 7. Appellant’s Application and Plans
STAFF REVIEWER:	Kevin M. Todd, AICP

PETITION HISTORY

This variance request was continued at the December 15, 2009 Board of Zoning Appeals (the “BZA”) meeting to allow the petitioner and staff time to further research the request. This variance request will be heard at the January 12, 2010 BZA meeting.

PROPERTY DESCRIPTIONS

- “Parent Property” – 12.9 acres; the Parent Property is comprised of Lot 1, Lot 2, and Lot 3 (as described below). Prior to being split into three (3) lots, the Parent Property was created on October 19, 2001 and was compliant with the minimum lot size and road frontage requirements for the AG-SF1 District.
- “Lot 1” – 1.0 acre. Lot 1 does not meet the minimum zoning requirements for an AG-SF1 lot because it is less than three (3) acres in size and does not have two hundred fifty (250) feet of road frontage. This lot was created on October 10, 2002.
- “Lot 2” – 6.5 acres; Lot 2 complies with the AG-SF1 District’s minimum lot size requirement of three (3) acres, but it does not meet the minimum road frontage requirement of two hundred fifty (250) feet. This lot was created with Lot 3 on October 8, 2002.



- “Lot 3” – 5.4 acres; Lot 3 complies with the minimum lot size and road frontage requirements for the AG-SF1 District. This lot was created with Lot 2 on October 8, 2002.
- Proper procedures for subdivision were not followed during the creation of any of the three (3) lots.

PROPERTY HISTORY

The following events took place on October 8-10, 2002: 1) the Parent Property was divided into three (3) lots; Lot 1, Lot 2, and Lot 3 (see Exhibit 3); and 2) the Appellant purchased Lot 2 and Lot 3. The subdivision of the Parent Property was done illegally, creating non-conformities with all three (3) lots. Lot 2, the subject of this variance request, was created with two hundred thirty-seven (237) feet of road frontage and does not meet the minimum road frontage requirement in the AG-SF1 District. When Lot 3 was created, it complied with all AG-SF1 lot configuration standards, but was created illegally.

Lot 1 is not owned by the Appellant and is not a part of this variance request. The current owner, Mr. Jeff Long, owns other adjacent property and intends to legally join it with one of his neighboring properties (see Exhibit 6). Doing so will resolve the issues created by the illegal creation of this property on October 10, 2002.

ANALYSIS

Lots 1, 2 and 3 are located in the AG-SF1 District, which requires a minimum of two hundred fifty (250) feet of road frontage for each lot. Before the Parent Property was split, it had four hundred eighty-seven (487) feet of road frontage on Moontown Road.

Neither Lot 2 nor Lot 3 is buildable property without the requested relief because the lots were created illegally. They could be joined together, creating a conforming AG-SF1 parcel that would be approximately 11.9-acres in size and would have four hundred eighty-seven (487) feet of road frontage.

The Appellant does not own more adjacent land, so property cannot be combined or re-configured to accumulate the five hundred (500) feet of combined road frontage necessary to have a compliant Lot 2 and Lot 3.

The minimum road frontage standard of two hundred fifty (250) feet in the AG-SF1 District was likely established in order to maintain rural character and spacing between driveway cuts and buildings in the agricultural areas of the community. Granting the requested variance would result in a five (5) percent reduction of the established standard.

PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Ind. Code 36-7-4-918.5 only upon a determination in writing that:



STANDARDS FOR VARIANCE REQUEST

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that approving the requested variances would be injurious to the public health, safety, morals, and general welfare of the community. The Comprehensive Plan identifies this area as appropriate for residential uses.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely that approving the requested variances would have a significant adverse impact on the use and value of adjacent property. However, the nature of this request may be contrary to the intended purpose of the requirement of two hundred fifty (250) feet of road frontage in the AG-SF1 District. Granting the requested variance would result in a five (5) percent reduction of the established standard for Lot 2.

Approving the requested variance would establish compliance with the zoning ordinance and would allow for the construction of a residential structure in an area that is anticipated for rural residential development. Approval of the request will likely result in a neutral or positive effect on the value of neighboring residential property. Feedback from adjacent property owners should provide more insight about the impact of the use and value of adjacent properties.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

Finding: It is likely that strict adherence to the zoning ordinance would result in a practical difficulty in the use of Lot 2 and Lot 3. The subject property is unusable for its intended purpose as it currently exists today.

RECOMMENDATION

Approve this request as presented.

KMT